

SUMMARY REPORT OF INVESTIGATION**I. EXECUTIVE SUMMARY**

Date of Incident:	June 27, 2018
Time of Incident:	1:30 p.m.
Location of Incident:	[REDACTED]
Date of COPA Notification:	July 6, 2018
Time of COPA Notification:	5:10 p.m.

On June 27, 2018 at approximately 1:55p.m., [REDACTED] went to Elite Car Wash located at [REDACTED] to wash his car. When the car wash was complete, [REDACTED] got into a verbal altercation with [REDACTED] the business owner's son, about some residue on his vehicle. During the altercation, [REDACTED] who has a valid Concealed Carry License, lifted his shirt and displayed a firearm to [REDACTED]. Both [REDACTED] and [REDACTED] called 911 and requested officers to the scene. Officers [REDACTED] and [REDACTED] arrived on scene and spoke with both parties. After speaking to [REDACTED] and [REDACTED] separately and reviewing surveillance footage of the altercation, Officers [REDACTED] and [REDACTED] completed complaints for both parties and advised [REDACTED] on how to obtain a summons. Neither [REDACTED] nor [REDACTED] were placed under arrest. COPA's investigation determined that the officers' actions were lawful and within policy, and that the allegations are unfounded.

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED] Star # [REDACTED] Employee ID# [REDACTED], Date of Appointment: [REDACTED] 2016, Rank: Police Officer, Unit: [REDACTED] DOB: [REDACTED] 1989, Male, White
Involved Officer #2:	[REDACTED] Star # [REDACTED] Employee ID# [REDACTED], Date of Appointment: [REDACTED] 2017, Rank: Police Officer, Unit: [REDACTED] DOB: [REDACTED] 1991, Male, White
Involved Individual #1:	[REDACTED] DOB: [REDACTED] 1968, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding
Officer [REDACTED]	1. On or about June 27, 2018, at approximately 1:30 p.m., at or near [REDACTED] Officer [REDACTED]	Unfounded

	<p>used disrespectful language towards [REDACTED] by stating, “Well, you’re a big black guy” to justify not arresting an individual who displayed his firearm to [REDACTED] in violation of Rule 8.</p> <p>2. On or about June 27, 2018, at approximately 1:30 p.m., at or near [REDACTED] Officer [REDACTED] failed to arrest an offender, in violation of Rule 10.</p>	
Officer [REDACTED]	<p>1. On or about June 27, 2018, at approximately 1:30 p.m., at or near [REDACTED] Officer [REDACTED] used disrespectful language towards [REDACTED] by stating, “Well, you’re a big black guy” to justify not arresting an individual who displayed his firearm to [REDACTED] in violation of Rule 8.</p> <p>2. On or about June 27, 2018, at approximately 1:30 p.m., at or near [REDACTED] Officer [REDACTED] failed to arrest an offender, in violation of Rule 10.</p>	Exonerated Unfounded

IV. APPLICABLE RULES AND LAWS

Rules

Rule 8: Disrespect to or maltreatment of any person, while on or off duty.

Rule 10: Inattention to duty.

General Orders

G02-04: Prohibition Regarding Racial Profiling and Other Bias Based Policing

V. INVESTIGATION¹

¹ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

a. Interviews²

COPA conducted an **audio-recorded interview of Complainant [REDACTED]** on July 12, 2018. During the interview, [REDACTED] stated that on June 27, 2018, he went to Elite Car Wash located at [REDACTED] to get his vehicle washed. After the car wash, an employee who was drying [REDACTED] car informed [REDACTED] that there was a film on the side of the car. [REDACTED] rubbed his hand over the area and felt the film as well. The employee went and got the manager to “see what he can do”⁴. The manager came out and offered to run [REDACTED] vehicle through the car wash again. After the second car wash, the film was still there so the manager went and got the owner’s son (now known to be [REDACTED]) since the owner was not present. [REDACTED] explained the situation to [REDACTED] and showed him the film on his vehicle. [REDACTED] told [REDACTED] that the residue had not come from the car wash. [REDACTED] bent down to show him the residue and then, all of a sudden, [REDACTED] started screaming, “Get your black ass off my fucking property!”⁵ As soon as [REDACTED] stood back up, [REDACTED] reached for his gun that was holstered near his waist. [REDACTED] raised the gun up, but did not pull it all the way out of the holster. At this point [REDACTED] was approximately three feet away from [REDACTED]. [REDACTED] stated he feared that [REDACTED] was about to shoot him.

[REDACTED] returned the gun to the holster, but kept yelling at [REDACTED] then got his phone out and called his father, stating “There’s a big ass black guy out here. He’s threatening me!”⁶. [REDACTED] removed his gun from the holster, but did not point it at [REDACTED]. [REDACTED] held his phone up as if he were recording [REDACTED] and he called 911 on speaker. [REDACTED] told dispatch that the car wash owner’s son was pulling a gun on him. Dispatch asked for descriptive details for both [REDACTED] and [REDACTED] and informed [REDACTED] that officers would be dispatched to the car wash. Ten minutes later, [REDACTED] called 911 again and provided the same descriptive details. Fourteen minutes later, [REDACTED] called 911 a third time. By this time [REDACTED] had gone back inside the shop. Dispatch informed [REDACTED] that officers were at the scene. Dispatch told the officers to go to the back of the car wash where [REDACTED] was located. The officers then came around and met [REDACTED]. [REDACTED] stated that the officers had already spoken with [REDACTED]. [REDACTED] informed the Caucasian officer (now known to be Officer [REDACTED]) what had transpired⁷ and alerted Officer [REDACTED] to the cameras in the area. Officer [REDACTED] asked [REDACTED] if he wanted to file a complaint and have [REDACTED] arrested. [REDACTED] replied that he did, but that the officers should first watch the video to confirm [REDACTED] account of what had occurred. At that point, Officers [REDACTED] and [REDACTED] went with [REDACTED] to watch the surveillance footage. Approximately five to ten minutes later, Officers [REDACTED] and [REDACTED] came back out. The officers stated that the video confirmed [REDACTED] version of events. However, Officer [REDACTED] told [REDACTED] “We’re sorry, but he said you were a big black guy and he was scared. So I don’t know what else we can do.”⁸ [REDACTED] asked the officers who they believed had been the victim of assault. Officer [REDACTED] responded, “Well that’s not really the point. Like I said, he told

² Based on a careful review of the body worn camera footage and other material evidence, COPA concluded that the allegations are clearly unfounded and exonerated, and it is not necessary that the Involved Officers address the allegations in any way.

³ Attachment 7.

⁴ *Id.* at 5:02.

⁵ *Id.* at 8:57.

⁶ *Id.* at 15:38.

⁷ Substantially the same information that [REDACTED] provided to COPA earlier in the interview.

⁸ *Id.* at 27:15.

us he was scared of you. You're a big black guy. Look at you.”⁹ [REDACTED] stated he was in disbelief that the officers were using his size and race as justification for [REDACTED] displaying a weapon during the altercation. The officers provided [REDACTED] with a Victim Information Notice with instructions for how to obtain a warrant. After that, the officers shook [REDACTED] hand and left. [REDACTED] left the car wash in his vehicle.

b. Digital Evidence

Officers [REDACTED] and [REDACTED] were both equipped with **Body Worn Cameras**¹⁰ that recorded their entire investigation, from before the officers exited their vehicle until they walk back to their vehicle to leave. The following is a summary of what was depicted on the body worn footage taken as a whole:

Officers [REDACTED] and [REDACTED] arrive at the car wash and walk around back to where [REDACTED] is standing by his vehicle. [REDACTED] walks up as [REDACTED] is explaining the situation to the officers. Officer [REDACTED] walks away with [REDACTED] while Officer [REDACTED] stays back and talks with [REDACTED]

[REDACTED] produces his Concealed Carry License and hands it to Officer [REDACTED]. Then Officer [REDACTED] rejoins Officer [REDACTED] and [REDACTED] tells the officers that [REDACTED] had used racial slurs towards him and displayed his weapon numerous times. After talking with [REDACTED] both officers go with [REDACTED] up to his office to view the surveillance footage. While showing the officers the video, [REDACTED] denies ever using any racial slurs. [REDACTED] states that he told [REDACTED] to “get the fuck” off his lot. [REDACTED] admits having placed his hand on his firearm, but states he never removed the firearm from its holster. [REDACTED] states he felt unsafe due to [REDACTED] size. [REDACTED] states, “I don’t know this fucking guy. He’s a 300-pound guy. I’m a 120-pound kid.”¹¹

After viewing the video footage, Officers [REDACTED] and [REDACTED] return to where [REDACTED] had been waiting by his vehicle. The officers explain that the video showed [REDACTED] place his hand on his gun, but did not depict him pull his gun from the holster at any time. Then Officer [REDACTED] explains, “The way it seems is, some smaller people feel threatened easier than some other people.”¹² Officer [REDACTED] proceeds to explain to [REDACTED] that the damage to the car is a civil issue and instructs [REDACTED] on how he can proceed civilly if he so chooses. Officer [REDACTED] reiterates Officer [REDACTED] statements, saying that he can see both [REDACTED] and [REDACTED] points of view because [REDACTED] is “a small little guy”¹³. At this point [REDACTED] becomes upset, stating he never acted aggressively and that his size and color have nothing to do with it. The officers continue to explain that the video depicted [REDACTED] maintaining his distance and never pulling his gun out of the holster. The officers explain to [REDACTED] that since he and [REDACTED] both allege the other made verbal threats and the video did not clearly depict any crime by either party, they do not have sufficient basis to arrest anyone. [REDACTED] continues to argue and both officers listen to him repeat his side of the story. Then the officers offer to provide [REDACTED] with a report for the assault complaint, advise

⁹ *Id.* at 28:00.

¹⁰ Attachment 13 (attachment contains BWC footage for both Officers [REDACTED] and [REDACTED])

¹¹ *Id.* at 16:57 (on Officer [REDACTED] BWC).

¹² *Id.* at 19:26 (on Officer [REDACTED] BWC).

¹³ *Id.* at 20:03 (on Officer [REDACTED] BWC).

him once more on how to proceed with the matter in criminal court if he chooses to do so and discuss damage to his vehicle being a civil matter. [REDACTED] continues to argue that [REDACTED] was threatening him. [REDACTED] states, "My size shouldn't even be part of the conversation."¹⁴ Officers [REDACTED] and [REDACTED] clarify that they do not view [REDACTED] size as threatening, but that they are just relaying what [REDACTED] had stated as the reason he felt threatened.

Officers [REDACTED] and [REDACTED] go with [REDACTED] back into the store to get a copy of the car wash business license. Then the officers go back to their vehicle and make a police report for both parties. They give a Victim Information Notice to both [REDACTED] and [REDACTED] for Assault. They again explain to both [REDACTED] and [REDACTED] the steps to take if they wish to proceed. The officers then walk back towards their vehicle.

c. Documentary Evidence

An Original Case Incident Report¹⁵ lists [REDACTED] and [REDACTED] both as Victim and both as Offender.

VI. ANALYSIS

a. Officer [REDACTED]

COPA recommends a finding of Unfounded for Allegation #1 (using disrespectful language) against Officer [REDACTED]. [REDACTED] alleges that Officer [REDACTED] stated, "Well, you're a big black guy" as justification for [REDACTED] assaulting him. However, body worn camera footage depicts this incident in its entirety from Officer [REDACTED] perspective. On the footage, Officer [REDACTED] conversations with [REDACTED] can be heard clearly at all times. At no point did Officer [REDACTED] say anything about [REDACTED] race. Officer [REDACTED] explained to [REDACTED] that [REDACTED] stated he felt threatened by [REDACTED] size. However, Officer [REDACTED] did not personally use [REDACTED] size or race as justification for [REDACTED] actions. In fact, Officer [REDACTED] authored a report listing [REDACTED] as an offender of aggravated assault with a handgun toward [REDACTED]. Therefore, COPA recommends a finding of **Unfounded** as to this allegation.

COPA recommends a finding of Exonerated for Allegation #2 (failing to arrest an offender) against Officer [REDACTED]. [REDACTED] alleges that Officer [REDACTED] failed to arrest [REDACTED] for assault. Officers [REDACTED] and [REDACTED] were not witness to the initial altercation and had no basis of reference other than the narratives provided by the involved parties and the car wash surveillance footage. Body Worn Camera footage depicts the officers spending approximately 50 minutes thoroughly investigating the conflict to make a fair determination of fault. Both [REDACTED] and [REDACTED] were given an equal opportunity to recount their version of events and both alleged the other had made threats. Officers [REDACTED] and [REDACTED] also reviewed surveillance footage from the car wash, but still could not conclusively determine fault due to a lack of audio and the video skipping. The only thing the officers could conclusively determine was that [REDACTED] had placed his hand on his holstered firearm.

¹⁴ *Id.* at 28:47 (on Officer [REDACTED] BWC).

¹⁵ Attachment 6.

Given the parties' conflicting narratives and the lack of clear corroboration by the surveillance video, the officers reasonably found a lack of probable cause to necessitate [REDACTED] arrest.

Furthermore, Officer [REDACTED] drafted a case report describing [REDACTED] as an offender and provided [REDACTED] with a Victim Information Notice. Officer [REDACTED] also took the additional step of explaining to [REDACTED] numerous times how he could proceed with the criminal complaint, or alternatively, with a civil lawsuit. Officer [REDACTED] did not mislead [REDACTED] about the procedure and was under no obligation to make an arrest absent probable cause. After a thorough investigation, Officers [REDACTED] and [REDACTED] determined probable cause did not exist. Therefore, COPA recommends a finding of **Exonerated** for this allegation.

b. Officer [REDACTED]

COPA recommends a finding of Unfounded for Allegation #1 (using disrespectful language) against Officer [REDACTED]. [REDACTED] alleges that Officer [REDACTED] invoked [REDACTED] race as justification for [REDACTED] assaulting him, stating "Well, you're a big black guy." However, body worn camera footage depicts this incident in its entirety from Officer [REDACTED] perspective. On the footage, Officer [REDACTED] conversations with [REDACTED] can be heard clearly at all times. At no point did Officer [REDACTED] say anything about [REDACTED] race. Officer [REDACTED] explained to [REDACTED] that [REDACTED] stated he felt threatened by [REDACTED] size. However, Officer [REDACTED] did not personally use [REDACTED] size or race as justification for [REDACTED] actions. Therefore, COPA recommends a finding of **Unfounded** as to this allegation.

COPA recommends a finding of Exonerated for Allegation #2 (failing to arrest an offender) against Officer [REDACTED]. [REDACTED] alleges that Officer [REDACTED] failed to arrest [REDACTED] for assault. Officers [REDACTED] and [REDACTED] were not witness to the initial altercation and had no basis of reference other than the narratives provided by the involved parties and the car wash surveillance footage. Body Worn Camera footage depicts the officers spending approximately 50 minutes thoroughly investigating the conflict to make a fair determination of fault. Both [REDACTED] and [REDACTED] were given an equal opportunity to recount their version of events and both alleged the other had made threats. Officers [REDACTED] and [REDACTED] also reviewed surveillance footage from the car wash, but still could not conclusively determine fault due to a lack of audio and the video skipping. The only thing the officers could conclusively determine was that [REDACTED] had placed his hand on his holstered firearm. Given the parties' conflicting narratives and the lack of clear corroboration by the surveillance video, the officers reasonably found a lack of probable cause to necessitate [REDACTED] arrest.

Furthermore, Officer [REDACTED] provided [REDACTED] with a Victim Information Notice for assault committed by [REDACTED]. Officer [REDACTED] also took the additional step of explaining to [REDACTED] numerous times how he could proceed with the criminal complaint, or alternatively, with a civil lawsuit.

Officer [REDACTED] did not mislead [REDACTED] about the procedure and was under no obligation to make an arrest absent probable cause. After a thorough investigation, Officers [REDACTED] and [REDACTED] determined probable cause did not exist. Therefore, COPA recommends a finding of **Exonerated** for this allegation.

VII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding
Officer [REDACTED]	<ol style="list-style-type: none">1. On or about June 27, 2018, at approximately 1:30 p.m., at or near [REDACTED] Officer [REDACTED] stated, "Well, you're a big black guy" to justify not arresting an individual who displayed his firearm to Complainant, in violation of Rule 8.2. On or about June 27, 2018, at approximately 1:30 p.m., at or near [REDACTED] Officer [REDACTED] failed to arrest an offender, in violation of Rule 10.	Unfounded Exonerated
Officer [REDACTED]	<ol style="list-style-type: none">1. On or about June 27, 2018, at approximately 1:30 p.m., at or near [REDACTED] Officer [REDACTED] stated, "Well, you're a big black guy" to justify not arresting an individual who displayed his firearm to Complainant, in violation of Rule 8.2. On or about June 27, 2018, at approximately 1:30 p.m., at or near [REDACTED] Officer [REDACTED] failed to arrest an offender, in violation of Rule 10.	Unfounded Exonerated

Approved:

[REDACTED]
Deputy Chief Administrator – Chief Investigator

[REDACTED]
Date

Appendix A

Assigned Investigative Staff

Squad#:	5
Investigator:	[REDACTED]
Supervising Investigator:	[REDACTED]
Deputy Chief Administrator:	[REDACTED]